

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**DANIEL P. TAYLOR,**

**Petitioner,**

**v.**

**9:16-CV-1210  
(FJS/CFH)**

**BRUCE YELICH, Superintendent, Bare Hill  
Correctional Facility,**

**Respondent.**

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**APPEARANCES**

**OF COUNSEL**

**DANIEL P. TAYLOR**

**14-A-4043**

Bare Hill Correctional Facility

Caller Box 20

Malone, New York 12953

Petitioner *pro se*

**OFFICE OF THE NEW YORK  
STATE ATTORNEY GENERAL**

26 Liberty Street

New York, New York 10005

Attorneys for Respondent

**JAMES F. GIBBONS, AAG**

**SCULLIN, Senior Judge**

**ORDER**

On October 6, 2016, Petitioner filed a *pro se* petition seeking a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on the ground that his trial counsel was ineffective. *See* Dkt. No. 1 at 5-8. Respondent opposed the petition and sought dismissal on the ground that Petitioner's petition was moot. *See* Dkt. No. 32.

On September 20, 2018, Magistrate Judge Hummel issued a Report-Recommendation and

Order, in which he recommended that this Court deny Petitioner's petition as moot and decline to issue a Certificate of Appealability. *See* Dkt. No. 36 at 6. The parties did not file any objections to these recommendations.<sup>1</sup>

"When a party does not object to a magistrate judge's report-recommendation, the court reviews that report-recommendation for clear error or manifest injustice." *Ward v. Lee*, No. 9:16-CV-1224, 2018 WL 3574872, \*1 (N.D.N.Y. July 25, 2018) (citation omitted). "After conducting this review, 'the Court may "accept, reject, or modify, in whole or in part, the ... recommendations made by the magistrate judge.'"" *Id.* (quoting *Linares v. Mahunik*, No. 9:05-CV-625, 2009 WL 3165660, \*10 (N.D.N.Y. July 16, 2009) (quoting 28 U.S.C. § 636(b)(1)(C)).

The Court has reviewed Magistrate Judge Hummel's September 20, 2018 Report-Recommendation and Order for clear error and manifest injustice; and, finding none, the Court hereby

**ORDERS** that Magistrate Judge Hummel's September 20, 2018 Report-Recommendation and Order, *see* Dkt. No. 36, is **ACCEPTED in its entirety** for the reasons stated therein; and the Court further

**ORDERS** that Petitioner's petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254, *see* Dkt. No. 1, is **DENIED** and his petition is **DISMISSED in its entirety**; and the Court further

**ORDERS** that the Clerk of the Court shall enter judgment and close this case; and the Court

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<sup>1</sup> The Clerk of the Court served Petitioner with a copy of Magistrate Judge Hummel's Report-Recommendation and Order at his last known address, *i.e.*, Bare Hill Correctional Facility. The United States Postal Service returned that document to the Court on October 1, 2018, with the following handwritten notation on the envelope: "Discharged 11/9/17." *See* Dkt. No. 37.

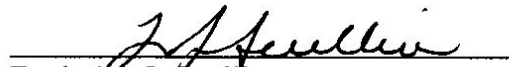
further

**ORDERS** that a Certificate of Appealability shall **not** issue in this case because Petitioner has not made a "substantial showing of the denial of a constitutional right" pursuant to 28 U.S.C. § 2253(c)(2); and the Court further

**ORDERS** that the Clerk of the Court shall serve a copy of this Order on the parties in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: October 12, 2018  
Syracuse, New York

  
Frederick J. Scullin, Jr.  
Senior United States District Judge